Panaji, 12th January, 1984 (Pausa 22, 1905)

# OFFICIAL



# **GAZETTE**

### GOVERNMENT OF GOA, DAMAN AND DIU

## GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

**Drafting Section** 

#### Notification

LD/1/9/83-(D)

The Vegetable Oils Cess Act, 1983 (30 of 1983) which has been assented to by the President on 7th September, 1983 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 9-9-1983; the Copyright (Amendment) Act, 1983 (23 of 1983) which has been assented to by the President on 31st August, 1983 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 1-9-1983; the National Oilseeds and Vegetable Oils Development Board Act, 1983 (29 of 1983) assented to by the President of India on 8th September, 1983 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 9-9--1983; the Arms (Amendment) Act, 1983 (25 of 1983) assented to by the President of India on 2nd September, 1983 which has been published in the Gazette of India, Extraordinary, Part II, Section 1 dated 2-9-1983, and the Electricity (Supply) Amendment Act, 1983 (16 of 1983) assented to by the President of India on 20th August, 1983 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 22-8-1983, are hereby republished for the general information of the public.

B. S. Subbanna, Under Secretary (Drafting).

Panaji, 21st November, 1983.

The Vegetable Oils Cess Act, 1983

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ACT

to provide for the levy and collection of a cess on vegetable oils for the development of the oilseeds

industry and the vegetable oils industry and for matters connected therewith.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:

- 1. Short title, extent and commencement.— (1) This Act may be called the Vegetable Oils Cess Act, 1983.
  - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Definitions. (1) In this Act, unless the context otherwise requires,
  - (a) "mill" means any premises in which or in any part of which, vegetable oil is produced, or is ordinarily produced, with the aid of power.

Explanation. — "Power" means electrical energy or any other form of energy, which is mechanically transmitted and is not generated by human or animal agency;

- (b) "occupier", in relation to any mill, means the person who has the ultimate control over the affairs of the mill, or the owner of the mill in case he is not the occupier;
- (c) "prescribed" means prescribed by rules made under this Act.
- (2) Words and expressions used but not defined in this Act and defined in the National Oilseeds and Vegetable Oils Development Board Act, 1983, shall have the meanings respectively assigned to them in that Act.
- 3. Levy and collection of Cess on vegetable oils.—
  (1) There shall be levied and collected by way of cess for the purposes of the National Oilseeds and Vegetable Oils Development Board Act, 1983, a duty of excise on vegetable oils produced in any mill in India at such rate not exceeding five rupees per quintal of vegetable oil, as the Central Government may, from time to time, specify by notification in the Official Gazette:

Provided that until such rate is specified by the Central Government, the duty of excise shall be levied and collected at the rate of one rupee per quintal of vegetable oil.

- (2) The duty of excise levied under sub-section (1) shall be in addition to the duty of excise leviable on vegetable oils under the Central Excises and Salt Act, 1944, or any other law for the time being 1 of 1944 in force.
- (3) The duty of excise levied under sub-section (1) shall be payable by the occupier of the mill in which the vegetable oil is produced.
- (4) The provisions of the Central Excises and Salt Act, 1944, and the rules 1 of 1944 made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of the said duty of excise as they apply in relation to the levy and collection of the duty of excise on vegetable oils under that Act.
- 4. Crediting proceeds of duty to the Consolidated Fund of India. — The proceeds of the duty of excise levied under sub-section (1) of section 3 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds (after deducting the cost of collection) such sums of money as it may think fit for being utilised for the purposes of the National Oilseeds and Vegetable Oils Development Board Act,
- 5. Power to call for reports and returns. The Central Government may require an occupier of a mill to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.
- 6. Power to make rules. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the form in which and the period within which statistical and other information may be furnished under section 5.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions. and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- 7. Amendment of Act 15 of 1966.—In the Produce Cess Act, 1966,—
  - (a) in section 2, -
  - (i) sub-clause (ii) of clause (g) and the Explanation thereto shall be omitted;

- (ii) clause (i) shall be omitted;
- (b) section 6 shall be omitted:
- (c) in the Second Schedule, S. No. 3 and the entries relating thereto in columns 2, 3 and 4 shall be omitted.

The Copyright (Amendment) Act, 1983

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to amend the Copyright Act, 1957.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows: -

- 1. Short title and commencement. (1) This Act may be called the Copyright (Amendment) Act, 1983.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Substitution of expression "radiediffusion" by expression "broadcast". -Throughout the Copyright Act, 1957 14 of 1957. (hereinafter referred to as the principal Act), unless otherwise expressly provided, for the word "radio-diffusion", wherever it occurs, the word "broadcast" shall be substituted.
- 3. Amendment of section 2. In section 2 of the principal Act, -
  - (a) after clause (d), the following clause shall be inserted, namely:
    - '(dd) "broadcast" means communication to the public -
      - (i) by any means of wireless diffusion. whether in any one or more of the forms of signs, sounds or visual images; or
    - (ii) by wire, and includes a re-broadcast;';
  - (b) after clause (f), the following clause shall be inserted, namely: —
    - '(ff) "communication to the public" means communication to the public in whatever manner, including communication through satellite;';
  - (c) for clause (l), the following clause shall be substituted, namely: —
    - '(l) "Indian work" means a literary, dramatic or musical work,
      - (i) the author of which is a citizen of India; or
        - (ii) which is first published in India; or
      - (iii) the author of which, in the case of an unpublished work, is, at the time of the making of the work, a citizen of India;';
    - (d) clause (v) shall be omitted.

- 4. Amendment of section 3.—In section 3 of the principal Act, in clause (a), for the words "work to the public in sufficient quantities", the words "work, either in whole or in part, to the public in a manner sufficient to satisfy the reasonable requirements of the public having regard to the nature of the work" shall be substituted.
- 5. Amendment of section 6. In section 6 of the principal Act, for clause (a), the following clause shall be substituted, namely:
  - "(a) whether for the purposes of section 3, copies of any,—
    - (i) literary, dramatic, musical or artistic work are issued to the public in a manner sufficient to satisfy the reasonable requirements of the public; or
    - (ii) records are issued to the public in sufficient quantities; or".
- 6. Amendment of section 12.— In section 12 of the principal Act, in sub-section (7), for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.

2 of 1974.

- 7. Amendment of section 15.—In section 15 of the principal Act, the words "Indian Patents and", at both the places where they occur, shall be omitted.
- 8. Amendment of section 17.—In section 17 of the principal Act,—
  - (a) after clause (c), the following clause shall be inserted, namely:—
    - "(cc) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;";
  - (b) after clause (d), the following clause and Explanation shall be inserted, namely:—
    - '(dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

Explanation. — For the purposes of this clause and section 28A, "public undertaking" means —

- (i) an undertaking owned or controlled by Government; or
- (ii) a Government Company as defined in section 617 of the Companies Act, 1956; or 1 of 1956
- (iii) a body corporate established by or under any Central, Provincial or State Act.'.

- 9. Amendment of section 19. Section 19 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—
  - "(2) The assignment of the copyright in any work shall, among other things, indicate clearly the rights proposed to be assigned and the size of the work.".
- 10. Insertion of new section 19A. After section 19 of the principal Act, the following section shall be inserted, namely:—
  - "19A. Disputes with respect to assignment of copyright. Where any dispute arises with respect to the assignment of, or any of the terms of the assignment of, any copyright, the Copyright Board may, on receipt of a complaint from any of the parties to the dispute and after holding such inquiry as it may deem necessary, pass such orders as it may deem fit, including orders by way of giving permission to the owner of the copyright to revoke its assignment if the terms of the assignment are harsh to him or if the publisher unduly delays the publication of the work or by way of issue of a certificate for the recovery of any royalty due to the owner."
- 11. Insertion of new section 28A. After section 28 of the principal Act, the following section shall be inserted, namely:—
  - "28A. Term of copyright in works of public undertakings.—In the case of a work, where a public undertaking is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published."
- 12. Insertion of new section 31A. After section 31 of the principal Act, the following section shall be inserted, namely:—
  - "31A. Compulsory licence in unpublished Indian works.—(1) Where, in the case of an Indian work referred to in sub-clause (iii) of clause (1) of section 2, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Copyright Board for a licence to publish such work or a translation thereof in any language.
  - (2) Before making an application under subsection (1), the applicant shall publish his proposal in one issue of a daily newspaper in the English language having circulation in the major part of the country and where the application is for the publication of a translation in any language, also in one issue of any daily newspaper in that language.
  - (3) Every such application shall be made in such form as may be prescribed and shall be accompanied with a copy of the advertisement issued under sub-section (2) and such fee as may be prescribed.
  - (4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar of Copyrights to grant to the applicant a licence to publish the work or a translation

thereof in the language mentioned in the application subject to the payment of such royalty and subject to such other terms and conditions as the Copyright Board may determine, and thereupon the Registrar of Copyrights shall grant the licence to the applicant in accordance with the direction of the Copyright Board.

- (5) Where a licence is granted under this section, the Registrar of Copyrights may, by order, direct the applicant to deposit the amount of the royalty determined by the Copyright Board in the public account of India or in any other account specified by the Copyright Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or the legal representatives to claim such royalty at any time.
- (6) Without prejudice to the foregoing provisions of this section, in the case of a work referred to in sub-section (1), if the original author is dead, the Central Government may, if it considers that the publication of the work is desirable in the national interest, require the heirs, executors or legal representatives of the author to publish such work within such period as may be specified by it.
- (7) Where any work is not published within the period specified by the Central Government under sub-section (6), the Copyright Board may, on an application made by any person for permission to publish the work and after hearing the parties concerned, permit such publication on payment of such royalty as the Copyright Board may, in the circumstances of such case, determine in the prescribed manner."

13. Amendment of section 32. — In section 32 of the principal Act, —

- (a) in sub-section (1), after the words "in any language", the words "after a period of seven years from the first publication of the work" shall be inserted;
- (b) after sub-section (1), the following subsection shall be inserted, namely:—
  - "(1A) Notwithstanding anything contained in sub-section (1), any person may apply to the Copyright Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the first publication of such work, if such translation is required for the purposes of teaching, scholarship or research:

Provided that where such translation is in a language not in general use in any developed country, such application may be made after a period of one year from such publication.";

(c) in sub-section (2), for the words "such application", the words "application under this section" shall be substituted;

#### (d) in sub-section (4), —

(i) in the opening paragraph, for the portion beginning with the words "the application, on condition that the applicant" and ending with the words "in the prescribed manner:", the following shall be substituted, namely:—

"the application -

- (i) subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner; and
- (ii) where such licence is granted on an application under sub-section (1A), subject also to the condition that the licence shall not extend to the export of copies of the translation of the work outside India and every copy of such translation shall contain a notice in the language of such translation that the copy is available for distribution only in India:

Provided that nothing in clause (ii) shall apply to the export by Government or any authority under the Government of copies of such translation in a language other than English, French or Spanish to any country if —

- (1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India; or
- (2) such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose; and
- (3) in either case, the permission for such export has been given by the Government of that country:";
- (ii) in the proviso, —
- (1) for the words "Provided that no such licence", the words "Provided further that no licence under this section" shall be substituted;
- (2) in clause (a), for the words "within seven years of the first publication of the work", the words "within seven years or three years or one year, as the case may be, of the first publication of the work" shall be substituted;
- (3) in clause (b), for the words "he was unable to find", the words "he was, after due diligence on his part, unable to find" shall be substituted;
  - (4) in clause (c), —
  - (A) for the words "such authorisation to the publisher whose name appears from the work", the words, brackets and figure "such authorisation by registered air mail post to the publisher whose name appears from the work, and in the case of an application for a licence under sub-section (1)" shall be substituted;
  - (B) for the words "the application for the licence", the words "such application" shall be substituted;
- (5) after clause (c), the following clauses shall be inserted, namely:—
  - "(cc) a period of six months in the case of an application under sub-section (1A) (not being an application under the proviso thereto), or nine months in the case of an applica-

tion under the proviso to that sub-section, has elapsed from the date of making the request under clause (b) of this proviso, or where a copy of the request has been sent under clause (c) of this proviso, from the date of sending of such copy, and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or nine months, as the case may be;

- (ccc) in the case of any application made under sub-section (1A),
  - (i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;
  - (ii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;";
- (e) after sub-section (4), the following sub-sections and Explanation shall be inserted, namely:—
  - '(5) Any broadcasting authority may apply to the Copyright Board for a licence to produce and publish the translation of
    - (a) a work referred to in sub-section (1A) and published in printed or analogous forms of reproduction; or
    - (b) any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities,

for broadcasting such translation for the purposes of teaching or for the dissemination of the results of specialised, technical or scientific research to the experts in any particular field.

- (6) The provisions of sub-sections (2) to (4) in so far as they are relatable to an application under sub-section (1A), shall, with the necessary modifications, apply to the grant of a licence under sub-section (5) and such licence shall not also be granted unless—
  - (a) the translation is made from a work lawfully acquired;
  - (b) the broadcast is made through the medium of sound and visual recordings;
  - (c) such recording has been lawfully and exclusively made for the purpose of broadcasting in India by the applicant or by any other broadcasting agency; and
  - (d) the translation and the broadcasting of such translation are not used for any commercial purposes.

Explanation. — For the purposes of this section, —

- (a) "developed country" means a country which is not a developing country;
- (b) "developing country" means a country which is for the time being regarded as such in conformity with the practice of the General Assembly of the United Nations;
- (c) "purposes of research" does not include purposes of industrial research, or purposes of research by bodies corporate (not being

- bodies corporate owned or controlled by Government) or other associations or body of persons for commercial purposes;
- (d) "purposes of teaching, research or scholarship" includes
  - (i) purposes of instructional activity at all levels in educational institutions, including Schools, Colleges, Universities and tutorial institutions; and
  - (ii) purposes of all other types of organised educational activity.'.
- 14. Insertion of new sections 32A and 32B. In Chapter VI of the principal Act, after section 32, the following sections shall be inserted, namely:—
  - "32A. Licence to reproduce and publish works for certain purposes. (1) Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,
    - (a) the copies of such edition are not made available in India; or
    - (b) such copies have not been put on sale in India for a period of six months,

to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right of reproduction or by any person authorised by him in this behalf, any person may apply to the Copyright Board for a licence to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or at a lower price for the purposes of systematic instructional activities.

- (2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.
- (3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.
- (4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that,—
  - (i) the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner;
  - (ii) a licence granted under this section shall not extend to the export of copies of the reproduction of the work outside India and every copy of such reproduction shall contain a notice that the copy is available for distribution only in India:

Provided that no such licence shall be granted unless—

(a) the applicant has proved to the satisfaction of the Copyright Board that he had

requested and had been denied authorisation by the owner of the copyright in the work to reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner;

- (b) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air-mail post to the publisher whose name appears from the work not less than three months before the application for the licence;
- (c) the Copyright Board is satisfied that the applicant is competent to reproduce and publish an accurate reproduction of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (d) the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Copyright Board, being a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subjects;
- (e) a period of six months in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work, has elapsed from the date of making the request under clause (a), or where a copy of the request has been sent under clause (b), from the date of sending of a copy, and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or, three months, as the case may be;
- (f) the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction;
- (a) the author has not withdrawn from circulation copies of the work; and
- (h) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.
- (5) No licence to reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India.
- (6) The provisions of this section shall also apply to the reproduction and publication, or translation into a language in general use in India, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

Explanation. — For the purposes of this section, "relevant period", in relation to any work, means a period of —

(a) seven years from the date of the first publication of that work, where the application

- is for the reproduction and publication of any work of, or relating to, fiction, poetry, drama, music or art;
- (b) three years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, natural science, physical science, mathematics or technology; and
- $(\tilde{c})$  five years from the date of the first publication of that work, in any other case.

32B. Termination of licences issued under this Chapter—(1) If, at any time after the granting of a licence to produce and publish the translation of a work in any language under sub-section (1A) of section 32 (hereafter in this sub-section referred to as the licensed work), the owner of the copyright in the work or any person authorised by him publishes a translation of such work in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for the translation of works of the same standard on the same or similar subject, the licence so granted shall be terminated:

Provided that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding such licence by the owner of the right of translation intimating the publication of the translation as aforesaid:

Provided further that copies of the licensed work produced and published by the person holding such licence before the termination of the licence takes effect may continue to be sold or distributed until the copies already produced and published are exhausted.

- (2) If, at any time after the granting of a licence to produce and publish the reproduction or translation of any work under section 32A, the owner of the right of reproduction or any person authorised by him sells or distributes copies of such work or a translation thereof, as the case may be, in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subject, the licence so granted shall be terminated:
- Provided that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding the licence by the owner of the right of reproduction intimating the sale or distribution of the copies of the editions of work as aforesaid:

Provided further that any copies already reproduced by the licensee before such termination takes effect may continue to be sold or distributed until the copies already produced are exhausted.'.

15. Amendment of section 37.—In sub-sec-(1) of section 37 of the principal Act, the words "by radio-diffusion" shall be omitted.

16. Amendment of section 45. - In section 45 of the principal Act, to sub-section (1), the following proviso shall be added, namely: -

"Provided that in respect of an artistic work which is used or is capable of being used in relation to any goods, the application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in section 4 of the Trade and Merchandise Marks Act, 1958, to the effect that no trade mark 43 of 1958. identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.".

- 17. Insertion of new section 50A. In Chapter X of the principal Act, after section 50, the following section shall be inserted, namely:
  - "50A. Entries in the Register of Copyrights, etc., to be published. - Every entry made in the Register of Copyrights or the particulars of any work entered under section 45, the correction of every entry made in such register under section 49, and every rectification ordered under section 50, shall be published by the Registrar of Copyrights in the Official Gazette or in such other manner as he may deem fit.".
- 18. Amendment of section 52.—In sub-section (1) of section 52 of the principal Act, in clause (b), the following Explanation shall be inserted at the end, namely: -

"Explanation.— The publication of a compilation of addresses or speeches delivered in public is not a fair dealing of such work within the meaning of this clause.".

- 19. Amendment of section 53. Insub-section (3) of section 53 of the principal Act, for the words and figures "under section 19 of the Sea Customs Act, 1978", the words and figures "under sec-8 of 1878. tion 11 of the Customs Act, 1962" shall 51 of 1962. be substituted.
- 20. Amendment of section 59. In section 59 of the principal Act, in sub-section (1), for the words and figures "the Specific Relief Act, 1877", the words 1 of 1877. and figures "the Specific Relief Act, 1963" 47 of 1963. shall be substituted.
- 21. Amendment of section 60. In section 60 of the principal Act, for the words and figures "in section 42 of the Specific Relief Act, 1877", the words and 1 of 1877. figures "in section 34 of the Specific Act, 47 of 1963. 1963" shall be substituted.
- 22. Amendment of section 70. In section 70 of the principal Act, for the words "a presidency magistrate or a magistrate of the first class", the words a Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

- 23. Amendment of section 78. In section 78 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:
  - "(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

The National Oilseeds and Vegetable Oils Development Board Act, 1983

> ANACT

to provide for the development under the control of the Union of the oilseeds industry and the vegetable oils industry and for matters connected

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows: -

#### CHAPTER

#### Preliminary

- 1. Short title, extent and commencement. (1) This Act may be called the National Oilseeds and Vegetable Oils Development Board Act, 1983.
  - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Declaration as to expediency of control by the Union. — It is hereby declared that it is expedient in the public interest that the Union should take under its control the oilseeds industry.
- 3. Definitions. In this Act, unless the context otherwise requires, ---
  - (a) "Board" means the National Oilseeds and Vegetable Oils Development Board established under section 4;
  - (b) "Chairman" means the Chairman of the Board;
  - (c) "coconut" has the same meaning as in the Coconut Development Board Act. 1979; 5 of 1979.
  - (d) "Executive Director" means the Executive Director of the Board;
    - (e) "member" means a member of the Board;
    - (f) "oilseed" does not include coconut;

- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "Vegetable oil" means any oil produced from oilseeds, or any other oil bearing material of plant origin, and containing glycerides but does not include any such vegetable oil which has been subjected to any processing subsequent to the recovery of oil;
- (i) "Vice-Chairman" means the Vice-Chairman of the Board.

#### CHAPTER II

#### The National Oilseeds and Vegetable Oils Development Board

- 4. Establishment and constitution of the Board.
   (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established, for the purposes of this Act, a Board to be called the National Oilseeds and Vegetable Oils Development Board.
- (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.
- (3) The head office of the Board shall be at Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.
- (4) The Board shall consist of the following members, namely:
  - (a) the Minister in charge of the Ministry of the Central Government dealing with agriculture, who shall ex officio be the Chairman of the Board;
  - (b) the Secretary in charge of the Ministry of the Central Government dealing with agricultural development, who shall *ex officio* be the Vice-Chairman of the Board.
  - (c) the Agriculture Commissioner to the Government of India, ex officio;
  - (d) the Director-General, Indian Council of Agricultural Research, ex officio;
  - (e) three members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;
  - (f) one member to be appointed by the Central Government to represent the Planning Commission;
  - (g) three members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—
    - (i) finance (revenue);
    - (ii) commerce;
    - (iii) civil supplies;
    - (h) Executive Director, ex officio;
  - (i) Financial Adviser to the Ministry of the Central Government dealing with agriculture, ex officio;

(j) eleven members to be appointed by the Central Government to represent respectively the Governments of the States of Andhra Pradesh, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Karnataka, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh:

Provided that every appointment under this clause shall be made on the recommendation of the Government of the State concerned;

- (k) five members to be appointed by the Central Government to represent respectively—
  - (i) the State Trading Corporation of India Limited;
  - (ii) the National Co-operative Development Corporation established under section 3 of the National Co-operative Development Corporation Act, 1962;

26 of 1962.

- (iii) the National Dairy Development Board;
- (iv) the National Agricultural Co-operative Marketing Federation;
- (v) the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

- (1) three members to be appointed by the Central Government to represent the oilseeds growers;
- (m) one member to be appointed by the Central Government to represent exporters of oilseeds, vegetable oils or other products derived from oilseeds;
- (n) one member to be appointed by the Central Government to represent the vegetable oils industry;
- (o) two members to be appointed by the Central Government to represent such other interests connected with the oilseeds industry or the vegetable oils industry as, in the opinion of that Government ought to be represented.
- (5) The term of office of the members, other than the ex officio members, and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, such members shall be such as may be prescribed.
- (6) Any officer of the Central Government, not being a member of the Board, when deputed by that Government in this behalf, shall have the right to attend the meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.
- (7) The Board may associate with itself in such manner, subject to such conditions and for such purposes as may be prescribed, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purpose for which he has been associated but shall not have the right to vote and shall be entitled to receive such allowances or fees as may be fixed by the Central Government.

- (8) No act or proceeding of the Board or any committee appointed by it under section 8 shall be invalidated merely by reason of—
  - (a) any vacancy in, or any defect in the constitution of, the Board or such committee; or
  - (b) any defect in the appointment of a person acting as a member of the Board or such committee; or
  - (c) any irregularity in the procedure of the Board or such committee not affecting the merits of the case.
- (9) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meeting (including the quorum at its meetings) as may be provided by regulations made by the Board under this Act.
- 5. Allowances of members. The members of the Board shall receive such allowances as may be fixed by the Central Government.
- 6. Officers of the Board and other staff.— (1) The Central Government shall appoint a person possessing such technical qualifications and practical experience in oilseeds development as may be prescribed, as the Executive Director to the Board.
- (2) The Executive Director shall be the chief executive of the Board and shall exercise such nowers and perform such functions as may be prescribed.
- (3) The Central Government shall appoint a Secretary to the Board who shall exercise such powers and perform such functions as may be prescribed or as may be delegated to him by the Board or the Executive Director.
- (h) The Executive Director and the Secretary shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.
- (5) Subject to such control and restrictions as may be prescribed the Board may appoint such other officers and employees, as may be necessary, for the efficient performance of its functions and the method of appointment, the conditions of service and the scales of pay and allowances of such other officers and employees of the Board shall be such as may be provided by the Board by regulations made under this Act.
- (6) The Executive Director, the Secretary and other officers and employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.
- 7. Special provision for transfer of employees to the Board. (1) On the establishment of the Board, it shall be lawful for the Central Government to transfer to the Board, by order, and with effect from such date or dates (which may be either retrospective to any date not earlier than the date of such establishment or prospective) as may be specified in the order, any officer or other employee

holding office as such in the Directorate of Oilseeds Development immediately before the date on which the Board is established:

Provided that the scale of pay of the post to which such officer or other employee is transferred shall not be lower than the scale of pay of the post he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer:

Provided further that if, immediately before the date of his transfer, any such officer or other employee is officiating in a higher post under the Central Government either in a leave vacancy or in any vacancy of a specified duration, his pay and other allowances, if any, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Central Government to which he would have reverted but for his transfer to the Board.

(2) Before any order is made under sub-section (1), the officers and other employees of the Directorate of Oilseeds Development who are proposed to be transferred under that sub-section shall be given an option in such form and within such time as may be specified in that behalf by the Central Government, to express their willingness or otherwise to become employees of the Board and such option once exercised shall be final:

Provided that no order under sub-section (1) shall be made in relation to any officer or other employee of the Directorate of Oilseeds Development who has intimated his intention of not becoming an employee of the Board within the time specified in that behalf:

Provided further that such of the persons employed by the Central Government in the said Directorate who do not express, within the time specified in that behalf, their intention of becoming the employees of the Board, shall be dealt with in the same manner as, and in accordance with the same rules as are applicable to, the employees of the Central Government in the event of the reduction of the strength of the Department in which such persons have been employed.

(3) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an officer or employee of the Central Government and become an officer or other employee of the Board with such designation as the Board may determine and shall be governed by the regulations made by the Board under this Act in respect of remuneration and other conditions of service (including pension, leave, provident fund and medical benefits) and shall continue to be an officer or other employee of the Board unless and until his employment is duly terminated by the Board:

Provided that till such time as the regulations referred to above governing the conditions of service of its officers or other employees are made by the Board, the relevant rules and orders made by the Central Government shall continue to be applicable to such officers or other employees.

- (4) If any question arises as to whether the terms and conditions of service prescribed in the regulations made by the Board in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Board, the decision of the Central Government in the matter shall be final.
- 8. Managing Committee and other committees of the Board.— (1) There shall be a Managing Committee of the Board for the purpose of exercising such of the powers and performing such of the functions of the Board as may be prescribed or as the Board may delegate to it.
- (2) The Managing Committee of the Board shall consist of the following members of the Board, namely:—
  - (a) the Vice-Chairman, who shall be the Chairman of the Managing Committee;
  - (b) the Agriculture Commissioner to the Government of India;
  - (c) the Director-General, Indian Council of Agricultural Research;
  - (d) one member to be nominated by the Chairman from among the members referred to in clause (g) of sub-section (4) of section 4;
    - (e) Executive Director;
  - (f) Financial Adviser to the Ministry of Central Government dealing with agriculture;
  - (g) one member to be nominated by the Chairman from among the members referred to in clause (j) of sub-section (4) of section 4;
  - (h) one member to be nominated by the Chairman from among the members referred to in clause (k) of sub-section (4) of section 4;
  - (i) one member to be nominated by the Chairman from among the members referred to in clause (l) of sub-section (4) of section 4; and
  - (j) one member to be nominated by the Chairman from among the members referred to in cluses (m), (n) and (o) of sub-section (4) of section 4.
- (3) Subject to such control and restrictions as may be prescribed, the Board may constitute other standing committees or ad hoc committees for exercising any powers or performing any functions of the Board or for inquiring into or reporting and advising on any matter which the Board may refer to them.
- (4) The Board shall have the power to co-opt as members of the Managing Committee or any committee constituted under sub-section (3), such number of persons who are not members of the Board as it thinks fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.
- (5) The persons co-opted as members of a committee under sub-section (4) shall be entitled to receive such allowances or fees for attending meetings of the committee as may be fixed by the Central Government.

- 9. Functions of the Board.—(1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development under the control of the Central Government of the oilseeds industry and the vegetable oils industry.
- (2) Without prejudice to the generality of the provisions contained in sub-section (1), the measures referred to therein may provide for—
  - (a) taking such measures for the development of the oilseeds industry and the vegetable oils industry as would enable farmers, particularly small farmers, to become participants in, and beneficiaries of, the development and growth of the oilseeds industry and the vegetable oils industry;
  - (b) recommending measures for improving the marketing of oilseeds, products of oilseeds and vegetable oils and for their quality control in India;
  - (c) imparting technical advice to any person who is engaged in the cultivation of oilseeds or the processing or marketing of oilseeds and its products:
  - (d) providing for, or recommending, financial or other assistance for the production and development of adequate quantity of breeders' seeds, foundation seeds and certified seeds of high quality, arranging supply of inputs for the oilseeds growers, adoption of improved methods of cultivation of oilseeds and modern technology for processing of oilseeds, extension of areas under oilseeds cultivation with a view to developing the oilseeds industry and the vegetable oils industry;
  - (e) recommending such measures as may be practicable for assisting oilseeds growers to get incentive prices, including recommending as and when necessary, after consultation with the Agricultural Prices Commission, minimum and maximum prices for oilseeds and products of oilseeds and vegetable oils;
  - (f) recommending and taking such measures as may be necessary for collection, procurement and maintenance of buffer stocks of oilseeds for stabilising the price situation and market conditions in respect of oilseeds, products of oilseeds and vegetable oils;
  - (g) recommending and taking such measures as may be necessary for the—
    - (i) promotion and development of storage facilities;
    - (ii) establishment of processing units, in respect of oilseeds, and rendering such financial or other assistance as may be considered necessary for such purposes;
    - (iii) promotion of oilseeds growers' co-operatives and other appropriate agencies, with a view to achieving integration between production, processing and marketing of oilseeds;
  - (h) recommending measures for regulating import, export or distribution of oilseeds or products of oilseeds or vegetable oils in the context of an integrated policy and programme of development of oilseeds and vegetable oils;
  - (i) collecting statistics from growers of oilseeds, dealers in oilseeds, manufacturers of pro-

ducts of oilseeds and vegetable oils and such other persons and institutions as may be necessary on any matter relating to the oilseeds industry or vegetable oils industry and publishing the statistics so collected or portions thereof or extracts therefrom;

- (j) recommending the setting up and adoption of grade standards for oilseeds and their products and vegetable oils;
- (k) financing suitable schemes in consultation with the Central Government and the Governments of the States where oilseeds are grown on a large scale, so as to increase the production of oilseeds and to improve their quality and yields; and for this purpose evolving schemes for the award of prizes or grant of incentives to growers of oilseeds and the manufacturers of oilseeds products and vegetable oils and for providing marketing facilities for oilseeds products and vegetable oils;
- (1) assisting, encouraging, promoting, co-ordinating and financing agricultural, technological, industrial or economic research on oilseeds, their products and vegetable oils in such manner as the Board may deem fit by making use of available institutions;
- (m) undertaking publicity work on the research and development of the oilseeds industry and the vegetable oils industry;
- (n) setting up of regional offices and other agencies for the promotion and development of production, processing, grading and marketing of oilseeds and its products and vegetable oils in different States and Union territories for the efficient discharge of the functions of the Board;
- (o) such other matters as may be considered necessary for the purpose of carrying out the functions of the Board or as may be prescribed.
- (3) The Board shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government in this behalf.
- 10. Dissolution of the Board.—(1) The Central Government may, by notification in the Official Gazette and for reasons to be specified therein, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Board to make representations against the proposed dissolution and shall consider the representations, if any, of the Board.

- (2) When the Board is dissolved under the provisions of sub-section (1),—
  - (a) all members, notwithstanding that their term of office has not expired, shall, from the date of dissolution, vacate their offices as such members;
  - (b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf and their remuneration shall be such as may be prescribed;

- (c) all funds and other properties vested in the Board shall, during the period of dissolution, vest in the Central Government; and
- (d) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

#### CHAPTER III

#### Finance, accounts and audit

- 11. Grants and loans by the Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.
- 12. Constitution of Oilseeds and Vegetable Oils Development Fund. (1) There shall be formed a Fund to be called the Oilseeds and Vegetable Oils Development Fund and there shall be credited thereto
  - (a) any fees that may be levied and collected under this Act or the rules or regulations made thereunder;
  - (b) any sums of money paid or any grants or loans granted by the Central Government for the purposes of this Act;
  - (c) any grants or loans that may be made by any person for the purposes of this Act (including loans obtained by the Board under section 13);
  - (d) any grants or donations from State Governments, voluntary organisations or other institutions.
  - (2) The Fund shall be applied -
  - (a) for meeting the cost of the measures referred to in section 9:
  - (b) for meeting the salaries, allowances and other remuneration of the members, officers and other employees, as the case may be, of the Board;
  - (c) for meeting the other administrative expenses of the Board and any other expenses authorised by or under this Act;
    - (d) for repayment of any loans.
- 13. Borrowing powers of the Board.—(1) The Board may, for the purposes of carrying out its functions under this Act, and with the previous approval of, and subject to the directions of the Central Government, borrow money from—
  - (a) the public by the issue or sale of bonds or debentures or both, carrying interest at such rates as may be specified therein;
    - (b) any bank or other institution;
  - (c) such other authority, organisation or institution as may be approved by the Central Government in this behalf.
- (2) The Central Government may guarantee the repayment of the monies borrowed by the Board under sub-section (1) and the payment of interest thereon and other incidental charges.

- 14. Accounts and audit.— (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.
- (4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

#### CHAPTER IV

#### Control by Central Government

- 15. Directions by Central Government.—The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.
- 16. Returns and reports.— (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the oilseeds industry and the vegetable oils industry, as the Central Government may, from time to time, require.
- (2) The Board shall furnish a programme of its activities for each financial year to the Central Government for their information and directions, if any.
- (3) Without prejudice to the provisions of sub--section (1), the Board shall, as soon as possible, after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.
- (4) A copy of the report received under sub-section (3) shall be laid, as soon as may be, after it is received, before each House of Parliament.

#### CHAPTER V

#### Miscellaneous

- 17. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the Central Government, or the Board or any committee appointed by it, or any member of the Board or such committee, or any officer or other employee of the Central Government or of the Board or any other person authorised by the Central Government or the Board, of anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.
- 18. Power to make rules.— (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) the term of office of the members (other than the ex officio members), and the manner of filling vacancies among, and the procedure to be followed in the discharge or their runctions by, such members, under sub-section (5) of section 4;
  - (b) the manner in which, the conditions subject to which and the purposes for which any person may be associated by the Board under sub-section (7) of section 4;
  - (c) the technical qualifications and practical experience in oilseeds development required for appointment to the post of the Executive Director to the Board under sub-section (1) of section 6;
  - (d) the powers which may be exercised and the functions which may be performed by the Executive Director as the chief executive of the Board under sub-section (2) of section 6;
  - (e) the powers which may be exercised and the functions which may be performed by the Secretary to the Board under sub-section (3) of section 6;
  - (f) the control and restrictions subject to which other officers and employees may be appointed by the Board under sub-section (5) of section 6;
  - (g) the powers which may be exercised and the functions which may be performed by the Managing Committee under sub-section (1) of section 8;
  - (h) the control and restrictions subject to which other standing committees or ad hoc committees may be constituted by the Board under sub-section (3) of section 8;
  - (i) the matters in respect of which the Board may undertake measures for the purpose of carrying out its functions under clause (o) of sub-section (2) of section 9;
  - (j) the remuneration payable to the person or persons referred to in clause (b) of sub-section (2) of section 10;
  - (k) the form in which the accounts of the Board shall be maintained and the annual statement of accounts shall be prepared under sub-section (1) of section 14:

- (1) the time at which and the form and manner in which the Board shall furnish returns and statements and particulars regarding its proposed or existing programmes to the Central Government under sub-section (1) of section 16;
- (m) the form in which and the date before which the Board shall furnish to the Central Government the report of its activities, policy and programmes during the previous financial year under sub-section (3) of section 16;
- (n) any other matter which has to be, or may be, prescribed by rules under this Act.
- 19. Power to make regulations.— (1) The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
  - (a) the times and places of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form a quorum at a meeting under sub-section (9) of section 4;
  - (b) the method of appointment, the conditions of service and the scales of pay and allowances of any of the other officers and employees of the Board under sub-section (5) of section 6;
  - (c) generally, for the efficient conduct of the affairs of the Board.
  - (3) The Central Government may, by notification in the Official Gazette, modify or rescind any regulation sanctioned by it and the regulation so modified or rescinded shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or rescission shall be without prejudice to the validity of anything previously done under the regulation.
- 20. Rules and regulations to be laid before Parliament. - Every rule and every regulation made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.
- 21. Power to remove difficulties. (1) If any difficulty arises in giving effect to the provisions of

this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) A copy of every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

The Arms (Amendment) Act, 1983

AN ACT

....

further to amend the Arms Act, 1959.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

- 1. Short title and commencement.— (1) This Act may be called the Arms (Amendment) Act, 1983.
- (2) It shall be deemed to have come into force on the 22nd day of June, 1983.
- 2. Amendment of section 2.—In section 2 of the Arms Act, 1959 (hereinafter 54 of 1959. referred to as the principal Act), in subsection (1), after clause (f), the following clause shall be inserted, namely:—
  - '(ff) "magistrate" means an Executive Magistrate under the Code of Criminal Procedure, 1973;'. 2 of 1974.
- 3. Amendment of section 3.—Section 3 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely:—
  - "(2) Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than three firearms:

Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Act, 1983, may retain with him any three of such firearms and shall deposit, within ninety days from such commencement, the remaining firearms with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that sub-section.

- (3) Nothing contained in sub-section (2) shall apply to any dealer in firearms or to any member of a rifle club or rifle association licensed or recognised by the Central Government using a point 22 bore rifle or an air rifle for target practice.
- (4) The provisions of sub-sections (2) to (6) (both inclusive) of section 21 shall apply in relation to any deposit of firearms under the proviso

to sub-section (2) as they apply in relation to the deposit of any arm or ammunition under sub-section (1) of that section.".

- 4. Amendment of section 5. Section 5 of the principal Act shall be re-numbered as sub-section (1) thereof and
  - (a) in sub-section (1) as so re-numbered, the proviso shall be omitted;
  - (b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—
    - "(2) Notwithstanding anything contained in sub-section (1), a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having in his possession such arms or ammunition:

Provided that no firearm or ammunition in respect of which a licence is required under section 3 and no arms in respect of which a licence is required under section 4 shall be so sold or transferred by any person unless—

- (a) he has informed in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station of his intention to sell or transfer such firearms, ammunition or other arms and the name and address of the person to whom he intends to sell or transfer such firearms, ammunition or the other arms, and
- (b) a period of not less than forty-five days has expired after the giving of such information.".
- 5. Amendment of section 9. In section 9 of the principal Act, in sub-section (1), in clause (a),
  - (a) in sub-clause (i), for the words "sixteen years", the words "twenty-one years" shall be substituted;
  - (b) in sub-clause (ii), for the words "a term of not less than six months", the words "any term" shall be substituted; and
  - (c) in sub-clause (iii), for the words and figures "Code of Criminal Procedure, 1898", the words and figures 5 of 1898. "Code of Criminal Procedure, 1973" 2 of 1974. shall be substituted.
- 6. Amendment of section 13.—In section 13 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—
  - "(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.
  - (2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub-section

(2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.".

- 7. Insertion of new sections 24A and 24B.—In Chapter IV of the principal Act, after section 24, the following sections shall be inserted, namely:—
  - '24A. Prohibition as to possession of notified arms in disturbed areas, etc.— (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary or expedient so to do, it may by notification in the Official Gazette—
    - (a) specify the limits of such area;
    - (b) direct that before the commencement of the period specified in the notification (which period shall be a period commencing from a date not earlier than the fourth day after the date of publication of the notification in the Official Gazette), every person having in his possession in such area any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms), shall deposit the same before such commencement in accordance with the provisions of section 21 and for this purpose the possession by such person of any notified arms shall, notwithstanding anything contained in any other provision of this Act (except section 41) or in any other law for the time being in force, as from the date of publication of such notification in the Official Gazette be deemed to have ceased to be lawful;
    - (c) declare that as from the commencement of, and until the expiry of, the period specified in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms;
    - (d) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—
      - (i) to search at any time during the period specified in the notification any person in, or passing through, or any premises in, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;
      - (ii) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification.

- (2) The period specified in a notification issued under sub-section (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.
- (3) The provisions of the Code of Criminal Procedure, 1973, relating to 2 of 1974. searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (1).
  - (4) For the purposes of this section,
    - (a) "arms" includes ammunition;
  - (b) where the period specified in a notification, as originally issued under sub-section (1), is extended under sub-section (2), then, in relation to such notification, references in sub-section (1) to "the period specified in the notification" shall be construed as references to the period as so extended.
- 24B. Prohibition as to carrying of notified arms in or through public places in disturbed areas, etc. (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do, it may, by notification in the Official Gazette,—
  - (a) specify the limits of such area;
  - (b) direct that during the period specified in the notification (which period shall be a period commencing from a date not earlier than the second day after the date of publication of the notification in the Official Gazette), no person shall carry or otherwise have in his possession any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms) through or in any public place in such area;
  - (c) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—
    - (i) to search at any time during the period specified in the notification any person in, or passing through, or any premises in or forming part of, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, any public place in such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;
    - (ii) to seize at any time during the period specified in the notification any notified arms

- being carried by or otherwise in the possession of any person, through or in a public place in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification.
- (2) The period specified in a notification issued under sub-section (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.
- (3) The provisions of the Code of Criminal Procedure, 1973, relating to 2 of 1974. searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (1).
  - (4) For the purposes of this section,—
    - (a) "arms" includes ammunition;
  - (b) "public place" means any place intended for use by, or accessible to, the public or any section of the public; and
  - (c) where the period specified in a notification, as originally issued under sub-section (1), is extended under sub-section (2), then, in relation to such notification, references in sub-section (1) to "the period specified in the notification" shall be construed as references to the period as so extended.'.
- 8. Amendment of section 25.—In section 25 of the principal Act,—
  - (a) for sub-section (1), the following sub-sections shall be substituted, namely:—
    - "(1) Whoever —
    - (a) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or
    - (b) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or
    - (c) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or
    - (d) brings into, or takes out of, India, any arms or ammunition of any class or description in contravention of section 11,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(1A) Whoever has in contravention of a notification issued under section 24A in his possession or in contravention of a notification issued under section 24B carries or otherwise has in his possession, any arms or ammunition shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years and shall also be liable to fine.

#### (1B) Whoever —

- (a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or
- (b) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification in contravention of that section; or
- (c) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (2) of section 8 or does any act in contravention of sub-section (1) of that section; or
- (d) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or
- (e) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (b) of sub-section (1) of section 9; or
- (f) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or
- (g) transports any arms or ammunition in contravention of section 12; or
- (h) fails to deposit arms or ammunition as required by sub-section (2) of section 3, or sub-section (1) of section 21; or
  - (i) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufactured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and shall also be liable to fine:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than six months.";

- (b) for sub-section (3), the following sub-section shall be substituted, namely:—
  - "(3) Whoever sells or transfers any firearm, ammunition or other arms
    - (i) without informing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or
    - (ii) before the expiration of the period of forty-five days from the date of giving such information to such district magistrate or the officer in charge of the police station.
  - in contravention of the provisions of clause (a) or clause (b) of the proviso to sub-section (2) of section 5, shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.".
- 9. Substitution of new section for section 26.— For section 26 of the principal Act, the following section shall be substituted, namely:—
  - "26. Secret contraventions.— (1) Whoever does any act in contravention of any of the provisions of section 3, 4, 10 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and also with fine.
  - (2) Whoever does any act in contravention of any of the provisions of section 5, 6, 7 or 11 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and also with fine.
  - (3) Whoever on any search being made under section 22 conceals or attempts to conceal any arms or ammunition, shall be punishable with imprisonment for a term which may extend to ten years and also with fine.".
- 10. Amendment of sections 27 and 28.—In section 27 and 28 of the principal Act, for the words ", or with fine, or with both", the words "and with fine" shall be substituted.
- 11. Amendment of section 29. In section 29 of the principal Act, for the words "six months, or

with fine of an amount which may extend to five hundred rupees, or with both", the words "three years, or with fine, or with both" shall be substituted

- 12. Amendment of section 30.—In section 30 of the principal Act, for the words "three months", the words "six months" and for the words "five hundred", the words "two thousand" shall be substituted.
- 13. Amendment of section 34.—In section 34 of the principal Act,—
  - (a) for the words and figures "Sea Customs Act, 1878", the words and 8 of 1878. figures "Customs Act, 1962" shall be 52 of 1962. substituted;
  - (b) for the word and figures "section 16", the word and figures "section 58" shall be substituted.
- 14. Amendment of sections 37 and 38.

   In sections 37 and 38 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

  2 of 1974.
- 15. Amendment of section 41.—In section 41 of the principal Act, in clause (a), for the words "exempt any person or class of persons", the words and brackets "exempt any person or class of persons (either generally or in relation to such description of arms and ammunition as may be specified in the notification)" shall be substituted.
- 16. Amendment of section 44. In section 44 of the principal Act,
  - (a) in sub-section (2), in clause (a), after the words "licensing authorities", the words "including the areas and the categories of arms and ammunition for which they may grant licences" shall be inserted;
  - (b) in sub-section (3), for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.
- 17. Repeal and saving.—(1) The Arms (Amendment) Ordinance, 1983, is 4 of 1983. hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

The Electricity (Supply) Amendment Act, 1983

### AN

#### ACT

further to amend the Electricity (Supply) Act, 1948.

Be it enacted by Parliament in the Thirty-fourth
Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Electricity (Supply) Amendment Act, 1983.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2. Amendment of section 59.—In section 59 of the Electricity (Supply) Act, 1948 54 or 1948. (hereinafter referred to as the principal Act),—
  - (a) in sub-section (1), for the words "leave such surplus, as the State Government may, from time to time, specify.", the following shall be substituted, namely:—

'leave such surplus as is not less than three per cent., or such higher percentage, as the State Government may, by notification in the Official Gazette, specify in this behalf, of the value of the fixed assets of the Board in service at the beginning of such year.

Explanation. — For the purposes of this subsection, "value of the fixed assets of the Board in service at the beginning of the year" means the original cost of such fixed assets as reduced by the aggregate of the cumulative depreciation in respect of such assets calculated in accordance with the provision of this Act and consumers' contributions for service lines.';

- (b) in sub-section (2), in the opening portion, for the words "the surplus", the words "any higher percentage" shall be substituted.
- 3. Amendment of section 67. For section 67 of the principal Act, the following section shall be substituted, namely:
  - "67. Priority of liabilities of the Board.—The Board shall distribute the surplus referred to in sub-section (1) of section 59 to the extent available in a particular year in the following order, namely:—
    - (i) repayment of principal of any loan raised (including redemption of debentures or bonds issued) under section 65 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;
    - (ii) repayment of principal of any loan advanced to the Board by the State Government under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;
    - (iii) payment for purposes specified in subsection (2) of section 59 in such manner as the Board may decide.".
- 4. Insertion of new section 67A. After section 67 of the principal Act, the following section shall be inserted, namely:
  - "67A. Interest on loans advanced by State Government to be paid only after other expenses.—Any interest which is payable on loans advanced under section 64 or deemed to have been advanced

under section 60 to the Board by the State Government and which is charged to revenues in any year may be paid only out of the balance of the revenues, if any, of that year which is left after meeting all the other expenses referred to in sub-section (1) of section 59 and so much of such interest as is not paid in any year by reason of the provisions of this section shall be deemed to be deferred liability and shall be discharged in accordance with the provisions of this section in the subsequent year or years, as the case may be."

- 5. Amendment of section 68.—In section 68 of the principal Act,—
  - (a) in sub-section (1), the words "Subject to the provisions of section 67," shall be omitted:
    - (b) sub-section (2) shall be omitted.

- 6. Amendment of section 69.—In section 69 of the principal Act,—
  - (a) in sub-section (1), for the words "as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India", the words "as the Central Government may, by notification in the Official Gazette, prescribed by rules made in this behalf in consultation with the Comptroller and Auditor-General of India and the State Governments" shall be substituted;
  - (b) after sub-section (5), the following sub-section shall be inserted, namely:—
    - "(6) The provisions of sub-section (3) of section 4B shall apply in relation to any rules made by the Central Government under sub-section (1) as they apply in relation to rules made by that Government under Chapter II.".